

UNITED STATES DISTRICT COURT

FOR THE

EASTERN DISTRICT OF NEW YORK

Douglas C Palmer
Clerk of Court

Brenna Mahoney
Chief Deputy

Michael J. Kramer
Chief Deputy



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26 October 2021

BY ECF AND OVERNIGHT MAIL

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In re: Levine v. Johnson & Johnson, 2:10-cv-03135-ADS-ETB

Dear Counsel,

I have been contacted by Chief Judge Margo K. Brodie on behalf of Judge Arthur D. Spatt who presided over the above-mentioned case.

Judge Brodie informed me that it has been brought to her attention that while Judge Spatt presided over the case, he owned stock in Johnson and Johnson. His ownership of stock neither affected nor impacted his decisions in this case. However, his stock ownership would have required recusal under the Code of Conduct for United States Judges, and thus, Judge Brodie on behalf of Judge Spatt, directed that I notify the parties of the conflict.

Advisory Opinion 71, from the Judicial Conference Codes of Conduct Committee, provides the following guidance for addressing disqualification that is not discovered until after a judge has participated in a case:

[A] judge should disclose to the parties the facts bearing on disqualification as soon as those facts are learned, even though that may occur after entry of the decision. The parties may then determine what relief they may seek and a court (without the disqualified judge) will decide the legal consequence, if any, arising from the participation of the disqualified judge in the entered decision.

Although Advisory Opinion 71 contemplated disqualification after a Court of Appeals oral argument, the Committee explained “[s]imilar considerations would apply when a judgment was entered in a district court by a judge and it is later learned that the judge was disqualified.”

With Advisory Opinion 71 in mind, you are invited to respond to this disclosure on behalf of Judge Spatt of a conflict in this case. Should you wish to respond, please submit your response on or before November 10, 2021. Any response will be considered by another judge of this court without the participation of Judge Spatt, who is now deceased.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a series of loops and a long horizontal stroke extending to the right.

Douglas C. Palmer
Clerk of Court